

[First Reprint]

SENATE, No. 760

STATE OF NEW JERSEY
220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator NIA H. GILL

District 34 (Essex and Passaic)

SYNOPSIS

Expands number of health care professions profiled under “New Jersey Health Care Consumer Information Act.”

CURRENT VERSION OF TEXT

As amended by the Senate on March 3, 2022.



(Sponsorship Updated As Of: 3/3/2022)

1 AN ACT concerning health care professionals, and amending
2 P.L.2003, c.96 (C.45:9-22.21 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.2003, c.96 (C.45:9-22.22) is amended to
8 read:

9 2. a. The Division of Consumer Affairs in the Department of
10 Law and Public Safety, in consultation with the **State Board of**
11 **Medical Examiners and the New Jersey State Board of**
12 **Optometrists** State boards that regulate health care professions,
13 shall collect and maintain information concerning all **physicians,**
14 **podiatrists and optometrists, respectively** health care
15 professionals, as defined pursuant to P.L.2002, c.104 (C.45:1-28),
16 licensed in the State for the purpose of creating a profile of each
17 **physician, podiatrist and optometrist** health care professional
18 pursuant to this act. The profiles shall be made available to the
19 public through electronic and other appropriate means, at no charge
20 to the public. The division shall establish a toll-free telephone
21 number for members of the public to contact the division to obtain a
22 paper copy of a **physician, podiatrist or optometrist** health care
23 professional's profile and to make other inquiries about the profiles.

24 b. A **physician, podiatrist or optometrist** health care
25 professional shall be required to provide the appropriate board or
26 division or its designated agent with any information necessary to
27 complete the profile as provided in section 3 of this act ¹, and the
28 director and the appropriate board may amend any application for
29 licensure or certification to the extent necessary to request from
30 health care professionals information required pursuant to section 3
31 of P.L.2003, c.96 (C.45:9-22.23)¹.

32 c. **Either** A board may ¹**request** require a health care
33 professional to submit¹ any additional information it deems
34 necessary to complete the profiles on the **biennial** license renewal
35 form submitted by **physicians, podiatrists and optometrists** health
36 care professionals, as applicable.

37 d. The appropriate board shall provide to the division or its
38 designated agent any information required pursuant to this act that
39 is available to the board concerning a **physician, podiatrist or**
40 **optometrist** health care professional, for the purpose of creating
41 the **physician, podiatrist and optometrist** health care
42 professional's **profiles** profile.

43 e. The Division of Consumer Affairs shall provide on the web-
44 based License Verification System maintained by the division a

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate floor amendments adopted March 3, 2022.

1 '[disclaimer] notice' that the License Verification System '[only]'
2 contains information '[on] intended to convey only' the license
3 status of a health care professional', and 'advising the public that
4 more' extensive background information on New Jersey-licensed
5 health care professionals is available on the public website
6 maintained by the division under the requirements of the "New
7 Jersey Health Care Consumer Information Act," P.L.2003, c.96
8 (C.45:9-22.21 et seq.).
9 (cf: P.L.2004, c.115, s.5)

10
11 2. Section 3 of P.L.2003, c.96 (C.45:9-22.23) is amended to
12 read:

13 3. a. The following information shall be included for each
14 profile of a **[physician, podiatrist or optometrist]** health care
15 professional, as applicable:

16 (1) Name of all **[medical or optometry]** schools, programs, or
17 any other course of study attended for the purpose of obtaining the
18 education required by the board regulating the health care
19 profession in which the health care professional is licensed and
20 dates of graduation;

21 (2) Graduate **[medical or optometry]** education, if applicable,
22 including all internships, residencies and fellowships;

23 (3) Year first licensed;

24 (4) Year first licensed in New Jersey;

25 (5) Location of the **[physician's, podiatrist's or optometrist's**
26 **office practice]** site or sites, as applicable, where the health care
27 professional performs the services the individual is licensed to
28 perform;

29 (6) A description of any criminal convictions for crimes of the
30 first, second, third or fourth degree within the most recent 10 years.
31 For the purposes of this paragraph, a person shall be deemed to be
32 convicted of a crime if the individual pleaded guilty or was found or
33 adjudged guilty by a court of competent jurisdiction. The
34 description of criminal convictions shall not include any
35 convictions that have been expunged. The following statement shall
36 be included **[with the information]** '[in the segment of the profiles
37 of physicians, optometrists, or midwives] with the information'
38 about criminal convictions: "Information provided in this section
39 may not be comprehensive. '[Courts in New Jersey are required by
40 law to provide information about criminal convictions to the State
41 Board of Medical Examiners [(or], the New Jersey State Board of
42 Optometrists, or the Midwifery Committee of the State Board of
43 Medical Examiners[)].] However, health care professionals are
44 required to undergo criminal background checks in order to be
45 licensed, and full criminal history background information is made
46 available to the board for that purpose.'";

- 1 (7) A description of any final board disciplinary actions within
2 the most recent 10 years, except that any such disciplinary action
3 that is being appealed shall be identified;
- 4 (8) A description of any final disciplinary actions by appropriate
5 licensing boards in other states within the most recent 10 years,
6 except that any such disciplinary action that is being appealed shall
7 be identified. **【The】** For a New Jersey-licensed physician, the
8 following statement shall be included with the information about
9 disciplinary actions in other states: "Information provided in this
10 section may not be comprehensive. The State Board of Medical
11 Examiners (or the New Jersey State Board of Optometrists) receives
12 information about disciplinary actions in other states from
13 physicians (or optometrists) themselves and outside sources.";
- 14 (9) **【In the case of physicians and podiatrists, a】** A description
15 of: the revocation or involuntary restriction of privileges at a New
16 Jersey-based or out-of-State health care facility for reasons related
17 to the practitioner's competence or misconduct or impairment taken
18 by a health care facility's governing body or any other official of the
19 health care facility after procedural due process has been afforded;
20 the resignation from or nonrenewal of **【medical】** staff membership
21 at the health care facility for reasons related to the practitioner's
22 competence or misconduct or impairment; or the restriction of
23 privileges at a health care facility taken in lieu of or in settlement of
24 a pending disciplinary case related to the practitioner's competence
25 or misconduct or impairment. Only those cases that have occurred
26 within the most recent 10 years **【and that were reported by the**
27 **health care facility pursuant to section 2 of P.L.2005, c.83**
28 **(C.26:2H-12.2b)】** shall be included in the profile; and
- 29 (10) All **【medical】** malpractice court judgments and all
30 **【medical】** malpractice arbitration awards reported to the applicable
31 board, in which a payment has been awarded to the complaining
32 party during the most recent five years, and all settlements of
33 **【medical】** malpractice claims reported to the board, in which a
34 payment is made to the complaining party within the most recent
35 five years, as follows:
- 36 (a) Pending **【medical】** malpractice claims shall not be included
37 in the profile and information on pending **【medical】** malpractice
38 claims shall not be disclosed to the public;
- 39 (b) A **【medical】** malpractice judgment that is being appealed
40 shall be so identified;
- 41 (c) The context in which the payment of a **【medical】**
42 malpractice claim occurs shall be identified by categorizing the
43 number of judgments, arbitration awards and settlements against the
44 **【physician, podiatrist or optometrist】** health care professional into
45 three graduated categories: average, above average and below
46 average number of judgments, arbitration awards and settlements.
47 These groupings shall be arrived at by comparing the number of an

1 individual **【physician's, podiatrist's or optometrist's medical】** health
2 care professional's malpractice judgments, arbitration awards and
3 settlements to the experience of other **【physicians, podiatrists or**
4 **optometrists】** health care professionals within the same **【speciality】**
5 specialty. In addition to any information provided by a **【physician,**
6 **podiatrist or optometrist】** health care professional, an insurer or
7 insurance association authorized to issue **【medical】** malpractice
8 liability insurance in the State shall, at the request of the division,
9 provide data and information necessary to effectuate this
10 subparagraph; and

11 (d) The following statement shall be included with the
12 information concerning **【medical】** malpractice judgments,
13 arbitration awards and settlements: "Settlement of a claim and, in
14 particular, the dollar amount of the settlement may occur for a
15 variety of reasons, which do not necessarily reflect negatively on
16 the professional competence or conduct of **【the physician (or**
17 **podiatrist or optometrist)】** this health care professional. A payment
18 in settlement of a **【medical】** malpractice action or claim should not
19 be construed as creating a presumption that **【medical】** malpractice
20 has occurred.";

21 (11) ¹To the extent available to the division, the following
22 information:

23 (a)¹ A description of violations of the "New Jersey Insurance
24 Fraud Prevention Act," P.L.1983, c.320 (C.17:33A-1 et seq.) within
25 the most recent five years;

26 ¹【(12)】 (b)¹ A description of Medicaid and Medicare exclusions
27 pursuant to section 1320a-7 of the federal "Social Security Act;"
28 ¹and¹

29 ¹【(13)】 (c)¹ Any actions taken by federal regulators, including
30 the United States Food and Drug Administration and the Drug
31 Enforcement Agency; and

32 ¹【(14)】 (12)¹ Any other information as determined by the
33 director pursuant to regulation ¹, except that nothing in this
34 subsection shall be construed to require the promulgation of
35 regulations for the director to authorize health care professionals to
36 include in their profiles additional information at the discretion of
37 the professional¹.

38 b. If requested by a **【physician, podiatrist or optometrist】**
39 health care professional, the following information shall be
40 included in **【a physician's, podiatrist's or optometrist's】** that health
41 care professional's profile:

42 (1) Names of the **【hospitals】** health care facilities where the
43 **【physician, podiatrist or optometrist】** health care professional has
44 privileges;

1 (2) Appointments of the **【physician or podiatrist】** health care
2 professional to **【medical school faculties, or the optometrist to**
3 **optometry school】** faculties of schools, programs, or any other
4 course of study providing the required education for the health care
5 profession in which the health care professional is licensed, within
6 the most recent 10 years;

7 (3) Information regarding any board certification granted by a
8 specialty board or other certifying entity recognized by **【the**
9 **American Board of Medical Specialties, the American Osteopathic**
10 **Association or the American Board of Podiatric Medicine or by any**
11 **other】** national professional **【organization】** organizations that **【has**
12 **have been demonstrated to have comparable standards】** represent
13 the health care professions licensed by the Division of Consumer
14 Affairs;

15 (4) Information regarding any translating services that may be
16 available at the **【physician's, podiatrist's or optometrist's office**
17 **practice】** site or sites where the health care professional performs
18 the services for which the individual is licensed to perform, as
19 applicable, or languages other than English that are spoken by the
20 **【physician, podiatrist or optometrist】** health care professional;

21 (5) Information regarding whether the **【physician, podiatrist or**
22 **optometrist】** health care professional participates in the Medicaid
23 program or accepts assignment under the Medicare program;

24 (6) Information regarding the **【medical】** health insurance plans
25 in which the **【physician, podiatrist or optometrist】** health care
26 professional is a participating provider;

27 (7) Information concerning the hours during which the
28 **【physician, podiatrist or optometrist conducts his practice】** health
29 care professional performs the services for which the individual is
30 licensed to perform; and

31 (8) Information concerning accessibility of the practice site or
32 sites, as applicable, to persons with disabilities.

33 The following disclaimer shall be included with the information
34 supplied by the **【physician, podiatrist or optometrist】** health care
35 professional pursuant to this subsection: "This information has
36 been provided by the **【physician (or podiatrist or optometrist)】**
37 health care professional but has not been independently verified by
38 the **【State Board of Medical Examiners (or the New Jersey State**
39 **Board of Optometrists)】** board under which this individual is
40 licensed or the Division of Consumer Affairs."

41 If the **【physician, podiatrist or optometrist】** health care
42 professional includes information regarding **【medical】** insurance
43 plans in which the practitioner is a participating provider, the
44 following disclaimer shall be included with that information: "This
45 information may be subject to change. Contact your health benefits

1 plan to verify if **【the physician (or podiatrist or optometrist)】** this
2 health care professional currently participates in the plan."

3 c. Before a profile is made available to the public, each
4 **【physician, podiatrist or optometrist】** health care professional shall
5 be provided with a copy of his profile. The **【physician, podiatrist or**
6 **optometrist】** health care professional shall be given 30 calendar
7 days to correct a factual inaccuracy that may appear in the profile
8 and so advise the Division of Consumer Affairs or its designated
9 agent; however, upon receipt of a written request that the division
10 or its designated agent deems reasonable, the **【physician, podiatrist**
11 **or optometrist】** health care professional may be granted an
12 extension of up to 15 calendar days to correct a factual inaccuracy
13 and so advise the division or its designated agent.

14 d. If new information or a change in existing information is
15 received by the division concerning a **【physician, podiatrist or**
16 **optometrist】** health care professional, **【the physician, podiatrist or**
17 **optometrist】** that professional shall be provided with a copy of the
18 proposed revision and shall be given 30 calendar days to correct a
19 factual inaccuracy and to return the corrected information to the
20 division or its designated agent.

21 e. The profile and any revisions thereto shall not be made
22 available to the public until after the review period provided for in
23 this section has lapsed.

24 (cf: P.L.2005, c.83, s.18)

25

26 3. Section 4 of P.L.2003, c.96 (C.45:9-22.24) is amended to
27 read:

28 4. The Division of Consumer Affairs may contract with a
29 public or private entity for the purpose of developing, administering
30 and maintaining the **【physician, podiatrist and optometrist】** profiles
31 of health care professionals required pursuant to this act.

32 a. The contract shall specify the duties and responsibilities of
33 the entity with respect to the development, administration and
34 maintenance of the profile. The contract shall specify the duties
35 and responsibilities of the division with respect to providing the
36 information required pursuant to section 3 of this act to the entity
37 on a regular and timely basis.

38 b. The contract shall specify that any identifying information
39 concerning a **【physician, podiatrist or optometrist】** health care
40 professional provided to the entity by the division, **【the State Board**
41 **of Medical Examiners, or the New Jersey State Board of**
42 **Optometrists or the optometrist or】** relevant licensing board,
43 **【respectively,】** or the **【physician or podiatrist】** health care
44 professional shall be used only for the purpose of the profile.

45 c. The division shall monitor the work of the entity to ensure
46 that **【physician, podiatrist and optometrist】** profiles on health care

1 professionals are properly developed and maintained pursuant to the
2 requirements of this act.

3 (cf: P.L.2004, c.115, s.7)

4

5 4. Section 8 of P.L.2003, c.96 (C.45:9-22.25) is amended to
6 read:

7 8. ¹~~【Within 180 days of the effective date of this act, the】~~ The¹
8 Director of the Division of Consumer Affairs in the Department of
9 Law and Public Safety, in consultation with the ~~【State Board of~~
10 ~~Medical Examiners and the New Jersey State Board of~~
11 ~~Optometrists】~~ ¹~~【relevant licensing】~~ State¹ boards¹ that license
12 health care professionals as defined pursuant to section 1 of
13 P.L.2002, c.104 (C.45:1-28)¹, shall adopt regulations pursuant to
14 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
15 seq.) necessary to effectuate the purposes of this act.

16 (cf: P.L.2004, c.115, s.9)

17

18 5. This act shall take effect ¹~~【on the first day of the thirteenth】~~
19 immediately, but sections 1 and 2 shall remain inoperative until the
20 first day of the 24th¹ month next following enactment.